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Paper No. 7

In re application of

Masaru Nakamura

Serial No. 09/695,043

Filed: October 25, 2000

For: DECOMPOSITION APPARATUS OF ORGANIC COMPOUND,
DECOMPOSITION METHOD THEREOF, EXCIMER UV LAMP
AND EXCIMER EMISSION APPARATUS

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed June 3, 2003, for failure to respond to the Office Action dated November 15, 2002. Applicant contends that although a timely response was sent, it was sent to the parent application.

DECISION

This petition request is accepted as a petition under 37 C.F.R. 1.181 (no fee).

On November 15, 2002, a restriction requirement was issued. On December 10, 2002, a response to the Examiner's Restriction requirement was filed. The header to that Amendment and Response to Restriction Requirement referenced the parent application rather than the serial number and filing date of the subject divisional application. The header did properly identified the Attorney Docket number, the title and specifically referenced the Office Action dated November 15, 2002. The December 10, 2002 Response was apparently never matched with the subject application. Applicant requests a response date of December 10, 2002 and withdrawal of the abandonment for failing to respond to the Office Action of November 15, 2002. In the alternative, applicant requests that if the December 10, 2002 submission is considered fatally defective, please consider this a Petition to Revive an Unintentionally Abandoned application.

A review of the petitioner's evidence provided with the instant petition for erroneous abandonment indicates that the request does not have merit.

37 CFR 1.5 Identification of application, patent or registration.

(a) No correspondence relating to an application should be filed prior to receipt of the application number from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it *must identify* on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application.

Applicant admits that the incorrect serial number was placed on the response. Although the other information on the response, i.e. inventor name, attorney docket number, etc, were correct, the main indicator used by the USPTO for matching papers is the US serial number.

Therefore, the holding of abandonment of May 15, 2003 was proper and is maintained.

The petition is **DENIED**.

The application will be forwarded to the Office of Petitions for consideration of applicant's Petition to Revive an Unintentional Abandoned Application.



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